

# PUBLIC UTILITIES CODE

## ***“Common Carrier”***

**211.** “Common carrier” means every person and corporation providing transportation for compensation to or for the public or any portion thereof, except as otherwise provided in this part.

“Common carrier” includes:

(a) Every railroad corporation; street railroad corporation; dispatch, sleeping car, dining car, drawing-room car, freight, freightline, refrigerator, oil, stock, fruit, car-loading, car-renting, car-loading, and every other car corporation or person operating for compensation within this state.

(b) Every corporation or person, owning, controlling, operating, or managing any vessel used in the transportation of persons or property for compensation between points upon the inland waters of this state or upon the high seas between points within this state, except as provided in Section 212. “Inland waters” as used in this section includes all navigable waters within this state other than the high seas.

(c) Every “passenger stage corporation” operating within this state.

(Amended Sec. 3, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

## ***Persons or Corporations Not Included in “Common Carrier”***

**212.** “Common carrier” shall not include:

(a) Any corporation or person owning, controlling, operating, or managing any vessel, by reason of the furnishing of water transportation service between points upon the inland waters of this state or upon the high seas between points within this state for affiliated or parent or subsidiary companies or for the products of other corporations or persons engaged in the same industry, if the water transportation service is furnished in tank vessels or barges specially constructed to hold liquids or fluids in bulk and if the service is not furnished to others not engaged in the same industry.

(b) Any corporation or person who operates any vessel for the transportation of persons for compensation, between points in this state if one terminus of every trip operated by the corporation or person is within the boundaries of a United States military reservation and is performed under a contract with an agency of the federal government which specifies the terms of service to be provided; and provided that the corporation or person does not perform any service between termini within this state which are outside of a United States military reservation. For the purposes of this subdivision, the conditions of this exemption shall be reviewed by the Public Utilities Commission annually as of the first day of January of each year.

(c) Any corporation or person owning, controlling, operating, or managing any recreational conveyance such as a ski lift, ski tow, J-bar, T-bar, chair lift, aerial tramway, or other device or equipment used primarily while participating in winter sports activities.

(d) Any corporation or person furnishing or otherwise providing transportation by horse, mule, or other equine animal for entertainment or recreational purposes.

(e) Any motor carrier of property, as defined in Section 34601 of the Vehicle Code.

(Amended Sec. 4, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

## ***Compliance with Safety Regulations***

**214.5.** With respect to a motor vehicle used in the transportation of passengers for compensation by a passenger stage corporation, “owner” means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

(Amended Sec. 7, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**216.5.** Notwithstanding Section 216, “public utility” does not include a motor carrier of property.

(Added Sec. 8, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**224.6.** “Motor carrier of property” means a motor carrier of property as defined in Section 34601 of the Vehicle Code.

(Amended Sec. 10, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

## ***Passenger Stage Corporation***

**226.** (a) “Passenger stage corporation” includes every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state between

fixed termini or over a regular route except those, 98 percent or more of whose operations as measured by total route mileage operated, which are exclusively within the limits of a single city or county, or whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and that institution.

For purposes of this section, the percentage of the route mileage within the limits of any city shall be determined by the Public Utilities Commission on the first day of January of each year, and the percentage so determined shall be presumed to continue for the year.

(b) "Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation, or management of any passenger stage over any public highway in this state, whether between fixed termini or over a regular route or otherwise, engaged in the transportation of any pupils or students to and from a public or private school, college, or university, or to and from activities of a public or private school, college, or university, where the rate, charge, or fare for that transportation is not computed, collected, or demanded on an individual fare basis.

"Passenger stage corporation" does not include the transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which is used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption also applies to a vehicle having a seating capacity of more than 15 passengers if the driver files with the commission evidence of liability insurance protection in the same amount and in the same manner as required for a passenger stage corporation, and the vehicle undergoes and passes an annual safety inspection by the Department of the California Highway Patrol. The insurance filing shall be accompanied by a one-time filing fee of seventy-five dollars (\$75). This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit" as used in this subdivision does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

(d) "Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation, or management of any medical transportation vehicles, including vehicles employed to transport developmentally disabled persons for regional centers established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(e) "Passenger stage corporation" does not include the transportation of persons which is ancillary to commercial river rafting and is for the sole purpose of returning passengers to the point of origin of their rafting trip.

(f) "Passenger stage corporation" does not include social service transportation delivered by a nonprofit social service transportation provider or a locally licensed or franchised for-profit transportation provider which operates, in dedicated vehicles, social service transportation pursuant to contract with a non-profit social service transportation provider organization as long as the provider does not use a vehicle designed for carrying more than 16 persons, including the driver, or does not operate vehicles which offer transportation services over regularly scheduled or fixed routes.

(g) "Passenger stage corporation" does not include intrastate passenger transportation service conducted pursuant to federal operating authority to the extent that regulation of these intrastate operations by the commission is preempted by the federal Bus Regulatory Reform Act of 1982 (P.L. 97-261), as amended.

(Amended Ch. 122, Stats. 1988. Effective June 1, 1988.)

#### **Motor Carrier**

**622.** (a) As used in this section, "motor carrier" means:

A passenger stage corporation as defined in Section 226.

(b) As used in this section, "water carrier" means a common carrier operating upon any waterway in this state between fixed termini or over a regular route.

(c) A motor carrier or water carrier may condemn any property necessary for the construction and maintenance of terminal facilities for the receipt, transfer, or delivery of the passengers or property it carries or for other terminal facilities of any such carrier.

(Amended Sec. 16, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

***State Policy as to Use of Waterways, Ports, and Harbors in Rate Making:  
"Competing Land Carriers"***

**727.** It is the policy of the state that the use of all waterways, ports, and harbors of this state shall be encouraged, and to that end the commission is directed in the establishment of rates for water carriers applying to business moving between points within this state to fix those rates at such a differential under the rates of competing land carriers that the water carriers shall be able fairly to compete for such business. In fixing the rates there shall be taken into consideration quality and regularity of service and class and speed of vessels.

(Amended Sec. 18, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

***Power of Commission to Establish Rates, Examine Books, and Hear Complaints regarding Railroads and Other Transportation Companies***

**728.5.** (a) The commission may establish rates or charges for the transportation of passengers and freight by railroads and other transportation companies, except motor carriers of property, and no railroad or other transportation company under its jurisdiction, except motor carriers of property, shall charge or demand or collect or receive a greater or less or different compensation for that transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates established by the commission than the rates, fares and charges which are specified in that tariff. The commission may examine books, records and papers of all railroad and other transportation companies, except motor carriers of property; may hear and determine complaints against railroad and other transportation companies; and may issue subpoenas and all necessary process and send for persons and papers. The commission and each of the commissioners may administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record. The commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies, except motor carriers of property.

(b) Subdivision (a) is not applicable to network railroad transportation.

(Amended Sec. 35, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

***Authority to Direct Use of Safety Devices***

**768.** The commission may, after a hearing, require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The commission may prescribe, among other things, the installation, use, maintenance, and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signaling. The commission may establish uniform or other standards of construction and equipment, and require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand. The Department of the California Highway Patrol shall have the primary responsibility for the regulation of the safety of operation of passenger stage corporations. The commission shall cooperate with the Department of the California Highway Patrol to ensure safe operation of these carriers.

(Amended Sec. 21, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

***Right of Carrier to Execute Conditional Sales Contract or Chattel Mortgage***

**816.5.** Nothing in this article or in Article 6 (commencing with Section 851) requires a common carrier by railroad subject to the Interstate Commerce Act (49 U.S.C. Sec. 10101 et seq.) or passenger stage corporation to secure from the commission authority to execute any conditional sales contract for the purchase of motor vehicle or railroad equipment or any note or chattel mortgage on that equipment securing the payment of all, or any part, of the purchase price.

(Amended Sec. 22, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**1033.7.** (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d),

suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a passenger stage corporation has continued to operate as such after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the corporation.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each day of unlawful operations.

(Amended Ch. 927, Stats. 1991. Effective January 1, 1992.)

**1041.** It is unlawful for the owner of a passenger stage employing or otherwise directing the driver of the passenger stage to permit the operation of the passenger stage upon any public highway for compensation without first having obtained from the commission a certificate pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 1038.5 or the accident liability protection requirements of Section 1040.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

**1042.** (a) Every passenger stage corporation shall furnish the commission annually, as specified by the commission, a list, prepared under oath, of all vehicles used in transportation for compensation during the preceding year. The commission shall furnish a copy of this list to the Department of the California Highway Patrol and to the corporation's insurer, if the corporation's accident liability protection is provided by a policy or policies of insurance.

(b) If the passenger stage corporation's insurer informs the commission that the corporation has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other applicable penalty provided in this part,

for a first occurrence, suspend the corporation's certificate or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the certificate or impose a fine, or both.

(Added Ch. 916, Stats. 1988. Effective January 1, 1989.)

**Common Carriers**

**1068.** No common carrier shall operate any motor vehicle over any public highway unless there is displayed on the vehicle a distinctive identifying symbol in the form prescribed by the commission, showing the classification to which the carrier belongs.

No such identifying symbol shall be displayed on any vehicle until a certificate of public convenience and necessity has been issued to the carrier. The identifying symbols displayed by carriers subject to the Interstate Commerce Commission Order Ex Parte No. MC-41, Identification of Motor Carrier Vehicles, November 17, 1954, effective January 3, 1955, shall serve in lieu of the display requirements of this section, if the identifying symbols have been recorded by the carrier with the commission.

The identifying symbol shall be displayed on both the left and right doors of the cab of the vehicle.

(Added Ch. 472, Stats. 1988. Effective January 1, 1989.)

**1070.5.** (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a highway common carrier or cement carrier be suspended either: (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway common carrier or cement carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's certificate by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any highway common carrier or cement carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any highway common carrier or cement carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for

reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway common carrier or cement carrier has continued to operate as such a carrier after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the carrier.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each day of unlawful operations.

(Amended Ch. 927, Stats. 1991. Effective January 1, 1992.)

**1077.** It is unlawful for the owner of a highway common carrier or cement carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a certificate pursuant to this chapter or without first having complied with the vehicle identification requirements or the accident liability protection requirements of the commission.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

**1904.** The commission shall also charge and collect the following fees:

(a) Except as otherwise provided in Section 1036 for filing each application for a certificate of public convenience and necessity, or for the mortgage, lease, transfer, or assignment thereof, seventy-five dollars (\$75).

(b) For a certificate authorizing an issue of bonds, notes, or other evidences of indebtedness, two dollars (\$2) for each one thousand dollars (\$1,000) of the face value of the authorized issue or fraction thereof up to one million dollars (\$1,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to ten million dollars (\$10,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000), with a minimum fee in any case of fifty dollars (\$50). No fee need be paid on such portion of any such issue as may be used to guarantee, take over, refund, discharge, or retire any stock, bond, note or other evidence of indebtedness on which a fee has theretofore been paid to the commission. If the commission modified the amount of the issue requested in any case and the applicant thereupon elects not to avail itself of the commission's authorization, no fee shall be paid, and if such fee is paid prior to the issuance of such certificate by the commission, such fee shall be returned.

(Amended Sec. 58, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**2107.5.** When the commission finds, after hearing, that any person or corporation has knowingly aided or abetted a common carrier in violating Section 458 or has violated Section 459, or any order, decision, rule, regulation, direction, demand, or requirement issued under those provisions, the commission may impose a fine for each violation not to exceed five thousand dollars (\$5,000). In addition to the fine, the commission may impose interest on the fine, not to exceed the maximum rate of interest provided for in Section 1 of Article XV of the Constitution. Interest shall commence to accrue on the date when the payment of the fine becomes delinquent.

(Amended Sec. 25, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

***Passenger Stage: Written Notice to Appear as Complaint***

**2117.** (a) Whenever a written notice to appear has been mailed to the owner of a passenger stage, an exact and legible duplicate copy of the notice, when filed with the magistrate in lieu of a verified complaint, is a complaint to which the defendant may plead guilty.

(b) If, however, the defendant fails to appear, does not deposit bail, or pleads other than guilty to the offense charged, a complaint shall be filed which conforms to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code and which shall be deemed to be an original complaint, and thereafter the proceeding shall be held as provided by law, except that the defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(Amended Sec. 26, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

***Violations of Identifying Symbol Requirement***

**2119.** Every passenger stage corporation and every officer, director, agent, or employee of a passenger stage corporation, who displays on any vehicle any identifying symbol other than one prescribed by the commission pursuant to Section 1038.5, or who fails to remove an identifying symbol when required by the commission, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars

(\$1,000), by imprisonment in the county jail for not more than one year, or by both.  
(Amended Sec. 27, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Chapter 1. Interstate and Foreign Motor Carriers of Household Goods  
and Passengers Act

Article 1. General Provisions

(Added Sec. 26, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**3901.** This chapter may be cited as the Interstate and Foreign Motor Carriers of Household Goods and Passengers Act.

(Added Sec. 29, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**3902.** (a) No household goods carrier, as defined in Section 5109, shall engage in any interstate or foreign transportation of property for compensation by motor vehicle, and no motor carrier shall engage in any interstate or foreign transportation of passengers for compensation by motor vehicle, on any public highway in this state without first having registered the operation with the commission or the carrier's base registration state, if other than California, as determined in accordance with final regulations issued by the Interstate Commerce Commission pursuant to the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. Sec. 11506). To register with the commission, carriers specified in this section shall comply with the following:

(1) When the operation requires authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, a copy of that authority shall be filed with the initial application for registration. A copy of any additions or amendments to the authority shall be filed with the commission.

(2) If the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, an affidavit of that exempt status shall be filed with the application for registration.

(3) The commission shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, subject to the carrier's compliance with this chapter.

(Added Sec. 29, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**3903.** Household goods carriers, as defined in Section 5109, engaged in interstate or foreign transportation of property for compensation by motor vehicle, and motor carriers engaged in interstate or foreign transportation of passengers for compensation by motor vehicle, upon any public highway in this state who had registered their authority from the Interstate Commerce Commission with the commission pursuant to former Section 3810 are not required to file another initial application as prescribed in paragraph (1) of subdivision (a) of Section 3902.

(Amended Sec. 29, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**Registration**

**3910.** (a) No highway carrier shall engage in any interstate or foreign transportation of property or passengers for compensation by motor vehicle on any public highway in this state without first having registered the operation with the commission or with the carrier's base registration state, if other than California, as determined in accordance with final regulations issued by the Interstate Commerce Commission pursuant to the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C., Sec. 11506). To register with the commission, a highway carrier shall comply with the following:

(1) When the operation requires authority from the Interstate Commerce Commission under the Interstate Commerce Act, a copy of that authority shall be filed with the initial application for registration. A copy of any additions or amendments to the authority shall be filed with the commission. Proof of public liability protection shall also be filed with the commission.

(2) If the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act, an affidavit of that exempt status shall be filed with the application for registration.

(b) The commission shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, subject to the highway carrier's compliance with this chapter.

(Amended Ch. 146, Stats. 1994. Effective January 1, 1995.)

**3911.** The commission shall establish fees to be charged for registration consistent

with the final regulations embodying standards as set forth in the Interstate Surface Transportation Efficiency Act of 1991, (49 U.S.C., Sec. 11506) and adopted by the Interstate Commerce Commission.

(Amended Ch. 312, Stats. 1993. Effective January 1, 1994.)

#### **Insurance**

**3920.** Registration shall not be granted to any carrier exempt from regulation by the Interstate Commerce Commission until there is filed with and accepted by the commission, in the form that it prescribes, a currently effective certificate of insurance or a surety bond evidencing bodily injury and property damage coverage not less than the minimum prescribed for owners and operators of for-hire vehicles regulated by the commission, or evidence of the qualification of the carrier as a self-insurer as may be authorized by the commission under any applicable general orders of the commission.

(Amended Ch. 312, Stats. 1993. Effective January 1, 1994.)

#### **Identification**

**3941.** If any highway carrier of property or passengers granted registration under this chapter also engages in intrastate operation pursuant to authority issued by the commission, the carrier shall be subject to the vehicle identification requirements of Section 1033, 3543, or 5385, whichever is applicable, rather than the provisions Section 3940.

(Amended Ch. 312, Stats. 1993. Effective January 1, 1994.)

**3942.** The commission shall assist the Department of the California Highway Patrol in the removal from service of any vehicle of any highway carrier which has failed or refused to register with the commission or with its base registration state pursuant to this chapter. In this connection, the commission may direct employees of the commission to be in attendance at weigh stations and highway checkpoints, if requested by the department, and furnish commission records and information related to highway carriers for the purpose of ascertaining the status of a highway carrier's registration.

(Amended Ch. 312, Stats. 1993. Effective January 1, 1994.)

#### **Fines and Penalties**

**3950.** Any person or corporation who violates the provisions of this chapter is guilty of a misdemeanor, and is punishable as provided in Chapter 6 (commencing with Section 16560) of Division 7 of the Vehicle Code.

(Repealed and Added Ch. 1715, Stats. 1984. Effective January 1, 1985.)

**3951.** The Department of Motor Vehicles and the Board of Equalization shall furnish information from their records to assist the Public Utilities Commission and the Department of the California Highway Patrol in the effective enforcement of this act.

(Repealed and Added Ch. 1715, Stats. 1984. Effective January 1, 1985.)

### **Chapter 2.5. Private Carriers of Passengers Act**

(Amended Sec. 31, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

#### **Private Carriers' Registration Act**

**4000.** This chapter may be cited as the Private Carriers of Passengers Registration Act.

(Amended Sec. 31, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**4001.** (a) For purposes of this chapter, "private carrier" means a not-for-hire motor carrier, as defined in Section 408 of the Vehicle Code, who transports passengers and is required to obtain a carrier identification number pursuant to Section 34507.5 of the Vehicle Code, but does not include persons providing transportation services specified in subdivision (k) or (l) of Section 5353.

(b) For purposes of this chapter, "department" means the Department of the California Highway Patrol.

(Amended Sec. 3, Ch. 652, Stats. 1997. Effective January 1, 1998.)

**4002.** The Department of Motor Vehicles and the State Board of Equalization shall furnish, upon request, whatever information from their records may be required to assist the commission and department in the effective enforcement of this chapter.

(Added Ch. 1025, Stats. 1989. Effective January 1, 1990.)

**4005.** Except as provided in Section 4008, no private carrier of passengers shall operate a motor vehicle on any public highway in this state unless its operation is currently registered with the commission. The commission shall grant registration upon the filing of the application and the payment of the fee as required by this article,



subject to the private carrier of passengers' compliance with this chapter.

(Amended Sec. 33, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

#### **Fees**

**4006.** A fee of thirty-five dollars (\$35) shall be paid to the commission for the filing of the initial registration of private carriers of passengers, and an annual renewal fee of thirty dollars (\$30) shall also be paid by private carriers of passengers. The fees required to be paid by carriers of passengers pursuant to this section shall be deposited in the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(Amended Sec. 67, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**4007.** (a) When the department issues a carrier identification number pursuant to Section 34507.5 of the Vehicle Code to a private carrier of passengers, it shall inform the carrier of the provisions of this chapter and the requirement that the carrier register with the Public Utilities Commission.

(b) The department shall periodically, but not less frequently than quarterly, transmit to the commission a list of the persons, firms, and corporations identified as private carriers of passengers to whom it has issued a carrier identification number. Upon receipt of the list, the commission shall notify the private carriers of passengers of the registration requirements and of the penalties for failure to register.

(Amended Sec. 68, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**4008.** The State of California and its agencies and political subdivisions are exempt from the registration requirements of this chapter.

(Added Ch. 1025, Stats. 1989. Effective January 1, 1990.)

**4010.** (a) Registration shall not be granted to any private carrier of passengers until there is filed with and accepted by the commission, in the form that it prescribes, a currently effective certificate of insurance or a surety bond evidencing protection against liability imposed by law for the payment of damages for personal injury to, or death of, any person or property damage, or both.

(b) Whenever the commission determines that the certificate of insurance or surety bond of a private carrier of passengers has lapsed or been terminated, the commission shall suspend the private carrier of passenger's registration.

(c) The commission shall notify the private carrier of passengers of any action taken under subdivision (b).

(Amended Sec. 37, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**4015.** A private carrier of passengers shall display the carrier identification number, as required by Section 34507.5 of the Vehicle Code, on the vehicles operated pursuant to the registration granted under this chapter.

(Amended Sec. 38, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

#### **Suspension of Carrier's Registration**

**4022.** (a) Upon receipt of a written recommendation from the department that the registration of a private carrier of passengers be suspended for failure to either (1) maintain any vehicle of the carrier in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's registration. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A private carrier of passengers whose registration is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125). The fees required to be paid by carriers of passengers pursuant to this section shall be deposited in the Public Utilities Commission Transportation Reimbursement Account in the General Fund. Upon payment of the fee, the commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's registration suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the registration is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the

commission, the department shall notify the private carrier of passengers in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's registration by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the registration of any private carrier of passengers pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the department. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may terminate the suspension, continue the suspension in effect, or revoke the registration. The commission may revoke the registration of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(Amended Sec. 39, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

#### **Purpose of Chapter**

**5001.** This chapter is enacted for the following purpose:

(a) Creating a special fund to administer and enforce the commission's jurisdiction to regulate household goods carriers.

(b) This chapter shall not apply to motor carriers of property who are required to register with the Department of Motor Vehicles under the Motor Carriers of Property Permit Act (Division 14.85 (commencing with Section 34600) of the Vehicle Code).

(Amended Sec. 43, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

#### **Quarterly Statement of Gross Operating Revenue: Fees**

**5003.1.** Every household goods carrier owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the commission shall, between the first and 15th days of January, April, July, and October of each year, file with the commission a statement showing the gross operating revenue derived by that person or corporation from the transportation of property for the preceding three calendar months, and shall, at the time of filing the report, pay to the commission a fee of fifteen dollars (\$15) for each quarter. Five dollars (\$5) from each fifteen dollars (\$15) quarterly base fee shall be allocated on a quarterly basis to the Motor Carriers Safety Improvement Fund. Every household goods carrier owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the commission shall, at the time of filing the report, pay to the commission a fee equal to one-third of 1 percent of the amount of the gross operating revenue, except as follows:

(a) For any particular fiscal year, the commission, with the approval of the Department of Finance, may fix the fee at less than one-third of 1 percent of that amount.

(b) The commission may increase the fee pursuant to subdivision (b) of Section 5003.2.

(Amended Sec. 4, Ch. 652, Stats. 1997. Effective January 1, 1998.)

#### **Deposit of Collected Fees; Fund as Augmentation of Current Appropriation; Purposes for which Fund Expendable**

**5005.** All fees collected under this chapter and all fees charged and collected for copies of papers, records, transcripts of testimony, or other documents, the cost of which is charged to the Transportation Rate Fund, shall be deposited at least once a month in the State Treasury to the credit of the Transportation Rate Fund, which is continued in existence. The money in the fund shall be in augmentation of the current appropriation for the support of the commission, and shall be expended by the commission for the purpose of administering and enforcing the Household Goods Carriers Act.

(Amended Sec. 45, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

***Household Goods Carrier***

**5110.5.** With respect to a motor vehicle used in the transportation of property for compensation by a household goods carrier, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

**5140.** It is unlawful for the owner of a household goods carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a permit pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 5132 or with the accident liability protection requirements of Section 5161.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

**5229.** (a) Every household goods carrier shall furnish the commission annually, as specified by the commission, a list, prepared under oath, of all vehicles used in transportation for compensation during the preceding year. The commission shall furnish a copy of this list to the Department of the California Highway Patrol and to the carrier's insurer, if the carrier's accident liability protection is provided by a policy of insurance.

(b) If the household goods carrier's insurer informs the commission that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other applicable penalty provided in this chapter, for a first occurrence, suspend the carrier's permit or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the permit or impose a fine, or both.

(Added Ch. 916, Stats. 1988. Effective January 1, 1989.)

**5285.5.** (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of

the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a household goods carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each day of unlawful operations.

(Amended Ch. 927, Stats. 1991. Effective January 1, 1992.)

**5285.6.** (a) (1) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended for any of the following, the commission, pending a hearing in the matter pursuant to subdivision (d), shall suspend the carrier's permit:

(A) Failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with applicable regulations contained in Title 13 of the California Code of Regulations, if that failure is either a consistent failure or presents an imminent danger to public safety.

(B) Failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

(C) Failure to submit any application or pay any fee required by subdivision (e) or (h) of Section 34501.12 of the Vehicle Code within the timeframes set forth in that section.

(2) The written recommendation shall specifically indicate compliance with subdivision (c).

(b) (1) A carrier whose permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the Department of the California Highway Patrol, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125).

(2) A carrier whose permit is suspended for failure to submit any application or to pay any fee required by Section 34501.12 of the Vehicle Code shall present proof of having submitted that application or having paid that fee to the Department of the California Highway Patrol before applying for reinstatement of that permit.

(3) The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall then forward a request for reinspection to the Department of the California Highway Patrol which shall then perform a reinspection within a reasonable time or verify receipt of the application or fee, or both the application and fee. The commission shall reinstate a carrier's permit that is suspended under subdivision (a) promptly upon receipt of a written recommendation from the Department of the California Highway Patrol that the carrier's safety compliance has improved to the satisfaction of that department, or that the required application or fees have been received, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the Department of the California Highway Patrol has determined that the carrier's safety record, or compliance with Section 1808.1 of, or subdivision (e) or (h) of Section 34501.12 of, the Vehicle Code, is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the Department of the California Highway Patrol within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the

carrier, the Department of the California Highway Patrol shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request for a hearing is filed with the commission, with a copy of that written request furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission, in addition to any other penalty provided in this chapter, may terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the Department of the California Highway Patrol and the carrier has not filed a written request for a hearing with the commission.

(e) Notwithstanding subdivision (d), no hearing shall be provided when the suspension of the permit is based solely upon the failure of the household goods carrier to submit an application or to pay fees required by Section 34501.12 of the Vehicle Code.

(f) If the commission, after a hearing, finds that a household goods carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

- (1) Revoke the operating permit or permits of the carrier.
- (2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each day of unlawful operations.

(Amended Sec. 1, Ch. 1006, Stats. 1999. Effective January 1, 2000.)

#### Article 9. Household Goods Carriers Uniform Business License Tax Act

(Amended Sec. 47, Ch. 10428, Stats. 1996. Effective September 29, 1996.)

**5325.** This article may be cited as the Household Goods Carriers Uniform Business License Tax Act.

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**5326.** An adequate transportation system is essential to the welfare of the state, and an important part of that system is service rendered by household goods carriers.

(Amended Sec. 85, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**5327.** On and after the effective date of this article no city or county shall assess, levy, or collect an excise or license tax of any kind, character, or description whatever upon the intercity transportation business conducted on or after the effective date of this article, by any household goods carriers, or person or corporation, owning or operating motor vehicles in the transportation of property for hire upon the public highways, under the jurisdiction of the commission. For purposes of this article, intercity transportation business includes every service performed in the connection with transportation of property by transportation companies where both the origin point and the destination point of the transported property are not within the exterior boundaries of a single city or city and county.

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**5328.** (a) On and after the effective date of this article, there is imposed upon every household goods carriers, and every person or corporation, owning or operating motor vehicles in the transportation of property for hire upon the public highways, under the jurisdiction of the commission, a license fee equal to one-tenth of 1 percent of gross operating revenue, which shall be payable to the commission in the manner and at the times provided for the payment of the fee provided in Section 5003.1. For purposes of this section, "gross operating revenue" shall be the gross operating revenue defined in Section 5002.

(b) The license fee imposed by this section is in lieu of all city or city and county excise or license taxes of any kind, character, or description whatever, upon the intercity transportation business of any household goods carrier, and every person or corporation owning or operating motor vehicles in the transportation of property for hire upon the public highways, under the jurisdiction of the commission.

(c) This section does not prohibit the imposition by any city, or city and county, of any excise or license tax authorized under Division 2 (commencing with Section 6001)

of the Revenue and Taxation Code.

(Amended Sec. 86, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**5329.** On and after the effective date of this article, any person or corporation, subject to the license fee imposed by Section 5328, required to pay any excise or license tax of any kind, character, or description whatever imposed by any city, or city and county, other than an excise or license tax authorized under Division 2 (commencing with Section 6001) of the Revenue and Taxation Code, for the privilege of doing any transportation business therein on or after the effective date of this article and on which it pays the license fee imposed by Section 5328, may credit the amount of the tax against the fee imposed by Section 5328.

(Amended Sec. 87, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**5330.** (a) All funds collected by the commission pursuant to this chapter shall be deposited in the State Treasury to the credit of the Highway Carrier's Uniform Business License Tax Fund.

(b) Of the moneys in the Highway Carrier's Uniform Business License Tax Fund, that amount necessary for the payment of refunds is hereby appropriated, without regard to fiscal years, to the commission for that purpose.

(c) Any remaining moneys in the Highway Carrier's Uniform Business License Tax Fund shall be transferred to the General Fund on the order of the Controller.

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**5331.** (a) If any person or corporation is in default in the payment of the license fee prescribed by this chapter for a period of 30 days or more, the commission may suspend or revoke any permit or license of the person or corporation, shall estimate from all available information the gross operating revenue of that person or corporation, shall compute the license fee required by Section 5328, and shall impose a penalty of 25 percent of the fee for failure, neglect, or refusal to report. In no event shall the amount of the penalty be less than one dollar (\$1). Upon payment of the estimated license fee and the penalty, the permit or license of the agency suspended in accordance with the provisions of this section shall be reinstated.

(b) The commission may grant a reasonable extension of the 30-day period to any person or corporation, upon written application of the person or corporation and showing of the necessity for the extension.

(c) Upon the revocation of any operating authority issued to any person or corporation subject to this chapter, all fees provided for by this chapter shall become due and payable immediately.

(Amended Sec. 88, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

**5332.** The commission may bring an action, in its own name, or in the name of the people of the state, in any court of competent jurisdiction of the state, for the collection of delinquent fees estimated under Section 5331 plus any penalties, for an amount due, owing and unpaid to it, as shown by a report filed by the person or corporation, together with a penalty of 25 percent of the amount for the delinquency.

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**5333.** The employees, representatives, and inspectors of the commission may, under its order of direction, inspect and examine any books, accounts, records, memoranda, documents, papers, and correspondence kept by any person, corporation, or person having direct or indirect control over a person or corporation subject to the license fee prescribed by this article.

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**5334.** The commission may make refunds of all or any amount of a fee provided for in this article if it determines that such fee or amount thereof was paid in error.

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

**5335.** (a) The commission may establish rules and regulations as it deems necessary to carry out this article.

(b) This section does not prohibit the imposition by any city, county, or city and county, of any excise or license tax authorized under Division 2 (commencing with Section 6001).

(Amended Sec. 47, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

#### ***Charter-Party Carrier of Passengers***

**5360.** Subject to the exclusions of Section 5353, "charter-party carrier of passengers" means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.

(Amended Ch. 101, Stats. 1983.)

**5362.** With respect to a motor vehicle used in the transportation of persons for compensation by a charter-party carrier of passengers, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

**5374.5.** (a) At the time of each bus terminal inspection conducted by the Department of the California Highway Patrol pursuant to subdivision (c) of Section 34501 of the Vehicle Code, every charter-party carrier of passengers shall furnish both the Department of the California Highway Patrol and the commission a list, prepared under oath, of all vehicles used in transportation for compensation during the period since the last inspection. The commission shall furnish a copy of the list to the carrier's insurer, if the carrier's accident liability protection is provided by a policy of insurance.

(b) If the charter-party carrier's insurer informs the commission that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other penalty provided in this chapter, for a first occurrence, suspend the carrier's certificate or permit or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the certificate or impose a fine, or both.

(Added Ch. 916, Stats. 1988. Effective January 1, 1989.)

**5378.5.** (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate or permit of a charter-party carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate or permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate or permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate or permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate or permit is suspended for another reason, or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the charter-party carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in suspension or revocation of the carrier's certificate or permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate or permit of any charter-party carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the certificate or permit. The commission may revoke the certificate or

permit of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a charter-party carrier has continued to operate as such a carrier after its certificate or permit has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating certificate or permit of the carrier.

(2) Impose upon the holder of the certificate or permit a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each day of unlawful operations.

(Amended Ch. 927, Stats. 1991. Effective January 1, 1992.)

**5378.6.** (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that a new or renewal application for a charter-party carrier certificate or permit be denied either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall deny the application. The department's written recommendation shall specifically indicate compliance with subdivision (b).

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the applicant for the charter-party carrier certificate or permit of all of the following in writing:

(1) That the department has determined that the applicant's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a denial of the applicant's certificate or permit by the commission.

(3) That the applicant may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. The department shall, upon request, conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission denies an application for renewal pursuant to subdivision (a), the commission shall furnish the charter-party carrier written notice of the denial and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the denial was improper or unwarranted. At the conclusion of the hearing, the commission may, in addition to any other remedy provided in this part, reverse the denial, or sustain the denial.

(d) Any applicant for a charter-party carrier certificate or permit denied pursuant to subdivision (a), whose denial has not been reversed as a result of the hearing provided for in subdivision (c), that wishes to obtain a certificate or permit shall reapply for the desired authority.

(Amended Ch. 928, Stats. 1991. Effective October 14, 1991.)

**5384.1.** (a) The driver of any limousine for hire operated by a charter-party carrier of passengers under a valid certificate or permit shall do all of the following:

(1) The driver shall ascertain whether any passenger is under the age of 21 years.

(2) If any passenger is under the age of 21 years, the driver shall read to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, that no alcoholic beverage may be transported in the passenger compartment of the vehicle, that all alcoholic beverages are required to be carried in the vehicle trunk or other locked compartment, and that, if during the course of the ride any minor is found to be, or to have been, consuming any alcoholic beverage, the contract will be terminated and the customer will be brought back to the point of origin of the ride.

(3) After reading the statement described in paragraph (2) to every passenger under the age of 21 years, the driver shall require every passenger under the age of 21 years to sign the statement. The limousine operator shall retain the signed statement for the period required by the commission.

(4) If any minor passenger, after signing a statement pursuant to paragraph (3), is found to be, or to have been, consuming any alcoholic beverage during the course of any ride subject to this section, the driver shall immediately terminate the contract of



hire and shall return the passengers to the point of origin of the ride.

(b) Any failure of a driver to comply with subdivision (a) that results in the conviction of the driver of a violation of Section 23225 of the Vehicle Code, shall be subject to the penalties prescribed in Section 5384.5.

(c) Notwithstanding any other provision of law, this section does not apply to the driver of any bus, taxicab, or van, and it does not prohibit a parent or legal guardian from consuming alcoholic beverages in a limousine for hire while accompanied by his or her minor children.

(Amended Ch. 518, Stats. 1990. Effective August 13, 1990.)

**5385.6.** (a) No charter-party carrier shall operate a limousine as defined by subdivision (h) of Section 5371.4 unless the limousine is equipped with the special license plates issued and distributed by the Department of Motor Vehicles pursuant to Section 5011.5 of the Vehicle Code.

(b) The commission shall issue to each charter-party carrier operating limousines a permit or certificate for the number of vehicles verified by the carrier as employed in providing limousine service. The permit or certificate shall be submitted to the Department of Motor Vehicles, which will issue to each verified vehicle a set of unique, identifying license plates. The department shall maintain a record of each set of plates it issues and provide a copy of each record to the commission.

(c) The commission shall recover from any carrier whose permit or certificate is cancelled, suspended, or revoked any and all plates issued pursuant to this section.

(d) The special license plate shall be in lieu of the decal required to be issued and displayed pursuant to Section 5385.5.

(e) This section shall become operative on July 1, 1995.

(Added Ch. 109, Stats. 1994. Effective June 27, 1994. Operative July 1, 1995.)

**5386.1.** Every charter-party carrier operating a limousine in every written or oral advertisement of the services it offers, shall state the number of its permit or license plate number.

This section shall become operative on July 1, 1995.

(Added Ch. 109, Stats. 1994. Effective June 27, 1994. Operative July 1, 1995.)

**5387.** It is unlawful for the owner of a charter-party carrier of passengers to permit the operation of any vehicle upon any public highway for compensation without (1) having obtained from the commission a certificate or permit pursuant to this chapter, (2) having complied with the vehicle identification requirements of Section 5385, 5385.5, or 5385.6, and (3) having complied with the accident liability protection requirements of Section 5391.

The amendments to this section made in 1994 shall become operative on July 1, 1995.

(Amended Ch. 109, Stats. 1994. Effective June 27, 1994. Operative July 1, 1995.)

**5411.5.** Whenever a peace officer arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public airport, or within two miles of the *international* border between the United States and Mexico, the peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of Section 5411 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in superior court, for the immediate return of the vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this section is a limited civil case.

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

(Amended Sec. 584, Ch. 784, Stats. 2002. Effective January 1, 2003.)

**5412.2.** (a) When a person is convicted of the offense of the operating of a charter-party carrier of passengers or a taxicab without a valid certificate or permit, in addition to any other penalties provided by law, if the court determines the operator has the ability to pay, the court shall impose a mandatory fine not exceeding one thousand dollars (\$1,000) for the first conviction, not exceeding two thousand dollars (\$2,000) for the second conviction, not exceeding three thousand dollars (\$3,000) for the third conviction, not exceeding four thousand dollars (\$4,000) for the fourth conviction, and not exceeding five thousand dollars (\$5,000) for the fifth conviction.

(b) As used in this section, "taxicab" means a passenger vehicle designed for carrying not more than eight persons, excluding the driver, and used to carry passengers for hire. "Taxicab" shall not include a charter-party carrier of passengers within the meaning of the Passenger Charter-Party Carriers Act, Chapter 8 (commencing with Section 5351).

(Added Ch. 468, Stats. 1992. Effective January 1, 1993.)